DOCUMENT RESUME

ED 134 630 UD 016 640

TITLE	Using the Voting Rights Act. Clearinghouse Publication 53.
INSTITUTION	Commission on Civil Rights, Washington, D.C.
PUB DATE	Apr 76
NOTE	47p.
AVAILABLE FROM	Superintendent of Documents, U.S. Government Printing Office, Washington, D.C., 20402 (Price not quoted)
EDRS PRICE	MF-$0.83 HC-$2.06 Plus Postage.
DESCRIPTORS	*Citizen Participation; Discriminatory Attitudes (Social); *Elections; Equal Protection; *Minority Groups; *Political Issues; Political Power; Politics; Racial Discrimination; Social Discrimination; Voter Registration; *Voting Rights
IDENTIFIERS	Voting Rights Act

ABSTRACT

The Voting Rights Act contains different provisions, some of which apply throughout the country and some of which apply only in those states and local jurisdictions that meet the conditions and tests spelled out in the act. This booklet explains the general provisions of the act, including the following: voter qualifications, civil suits and attorney's fees, and the criminal provisions. In addition to the general protections that apply throughout the United States, the Voting Rights Act contains special provisions that apply only in the States and localities that meet certain conditions and statistical tests spelled out in the law. These special provisions are explained in the booklet. The discussion focuses on the four different coverage formulas or "triggers" by which the special provisions of the act may be applied to jurisdictions throughout the country. The original Voting Rights Act of 1965 provides for three kinds of direct Federal involvement in the electoral processes of jurisdictions These provide for the authority for the use of Federal examiners and Federal observers and for the requirement of Federal clearance of changes in a covered jurisdiction's election laws and practices. These provisions along with the minority language provisions are also explained. (Author/AM)

****
* Documents acquired by ERIC include many informal unpublished *
* materials not available from other sources. ERIC makes every effort *
* to obtain the best copy available. Nevertheless, items of marginal *
* reproducibility are often encountered and this affects the quality *
* of the microfiche and hardcopy reproductions ERIC makes available *
* via the ERIC Document Reproduction Service (EDRS). EDRS is not *
* responsible for the quality of the original document. Reproductions *
* supplied by EDRS are the best that can be made from the original. *
****

Using the Voting Rights Act

United States Commission on Civil Rights
Clearinghouse Publication 53

April 1976

ED134630

U.S. DEPARTMENT OF HEALTH,
EDUCATION & WELFARE
NATIONAL INSTITUTE OF
EDUCATION

THIS DOCUMENT HAS BEEN REPRODUCED EXACTLY AS RECEIVED FROM THE PERSON OR ORGANIZATION ORIGINATING IT. POINTS OF VIEW OR OPINIONS STATED DO NOT NECESSARILY REPRESENT OFFICIAL NATIONAL INSTITUTE OF EDUCATION POSITION OR POLICY

UD 016640

For sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402

U.S. COMMISSION ON CIVIL RIGHTS

The United States Commission on Civil Rights is a temporary, independent, bipartisan agency established by the Congress in 1957 to:

- Investigate complaints alleging denial of the right to vote by reason of race, color, religion, sex, or national origin, or by reason of fraudulent practices;
- Study and collect information concerning legal developments constituting a denial of equal protection of the laws under the Constitution because of race, color, religion, sex, or national origin, or in the administration of justice;
- Appraise Federal laws and policies with respect to the denial of equal protection of the laws because of race, color, religion, sex, or national origin, or in the administration of justice;
- Serve as a national clearinghouse for information concerning denials of equal protection of the laws because of race, color, religion, sex, or national origin; and
- Submit reports, findings, and recommendations to the President and Congress.

MEMBERS OF THE COMMISSION

Arthur S. Flemming, *Chairman*
Stephen Horn, *Vice Chairman*
Frankie M. Freeman
Robert S. Rankin
Manuel Ruiz, Jr.
Murray Saltzman
John A. Buggs, *Staff Director*

TABLE OF CONTENTS

	Page
INTRODUCTION	1
DEFINITIONS	2
GENERAL PROVISIONS	3
VOTER QUALIFICATIONS	3
CIVIL SUITS AND ATTORNEY'S FEES	3
CRIMINAL PROVISIONS	3
SPECIAL PROVISIONS	4
Coverage	4
SPECIAL PROVISIONS OF THE 1965 ACT	7
Federal Examiners	7
Federal Observers	8
Federal Review of Voting Changes (Section 5 Review)	9
MINORITY LANGUAGE PROVISIONS (1975 AMENDMENTS)	11
CONCLUSION	14
COVERAGE TABLES (as of March 1, 1978)	
1. Coverage Limited to Original Special Provisions of the Voting Rights Act	15
2. Coverage Limited to Minority Language Provisions of the Voting Rights Act	16
3. Combined Coverage under the Voting Rights Act	20
TEXT OF THE VOTING RIGHTS ACT	21
FOR MORE INFORMATION	Inside Back Cover

INTRODUCTION

The Voting Rights Act of 1965, amended by Congress in 1970 and again in 1975, protects and strengthens minority citizens' right to vote throughout the United States. In many parts of the South, it has been used to remove unfair qualifications for voting and to correct unfair administration of the election system. It has led to greatly increased registration, voting, and election of blacks to public office in most Southern States.

Application of the law's special provisions in other scattered sections of the country has also provided opportunities for increased political participation by American Indians, Mexican Americans, and Puerto Ricans. In extending the Voting Rights Act on two occasions, Congress expressed its determination that every trace of racial discrimination in voting should be removed.

In 1975 Congress also amended the Voting Rights Act to strengthen the 14th amendment voting rights of citizens with a limited knowledge of English. The new provisions of the Voting Rights Act require States, counties, and towns with significant numbers of Spanish heritage Americans, Asian Americans, American Indians, or Alaskan Natives to conduct elections in the language(s) of the appropriate minority group(s) as well as in English. Although the law itself is technical and complex, its basic intent is simple and clear: racial and language minority citizens should have the same rights and opportunities as other Americans to participate in politics and government at every level.

In order to meet this goal, the law contains permanent and temporary provisions. The permanent or general provisions affect the entire country. The temporary or special provisions affect certain States and counties or towns where minority citizens may have had difficulty exercising their right to vote.

More specifically, the Voting Rights Act:

- prohibits the use of literacy tests and other devices as qualifications for voting in any Federal, State, local, general, or primary election anywhere in the United States;
- assures that residence requirements will not prevent citizens from voting for President and Vice President anywhere in the United States;
- authorizes the Federal courts to apply the special provisions to jurisdictions not already covered by them;
- provides for assigning Federal *examiners* to register voters and Federal *observers* to watch voting in many States and counties covered by the special provisions of the law;
- requires Federal clearance of new registration and voting laws and procedures in many States and counties covered by the special provisions of the law; and,

- requires the use of languages other than English for registration and voting in certain States, counties, and towns covered by the minority language provisions of the law.

DEFINITIONS

In the Voting Rights Act, certain terms have specific legal definitions. Among the most important are:

voting—includes all action necessary, from the time of registration to the actual ballot count, to make a vote for public or party office effective.

test or device—any requirement that a person must do any of the following in order to register or vote:

1) demonstrate the ability to read, write, understand, or interpret any matter;
2) demonstrate any educational achievement or knowledge of any particular subject;
3) prove his (her) qualifications by having another person (such as a registered voter) vouch for him (her);
4) possess good moral character;
5) register or vote only in English in jurisdictions where the Census Bureau has determined that more than 5 percent of the citizens of voting age are members of a single language minority.

language minority—a person who is American Indian, Asian American, Alaskan Native, or of Spanish heritage. According to the Census Bureau, the category "Asian American" includes Chinese, Filipino, Japanese, and Korean American citizens. The category "persons of Spanish heritage" includes:

1) persons of Spanish language in 42 States and the District of Columbia;
2) persons of Spanish language and persons of Spanish surname in Arizona, California, Colorado, New Mexico, and Texas, and
3) persons of Puerto Rican birth or parentage in New Jersey, New York, and Pennsylvania.

Political subdivision—a county, parish, town, or other subdivision of a State that conducts voter registration.

illiteracy—failure to complete the fifth primary grade.

In this pamphlet, the following terms are also used:

jurisdiction—a general term referring collectively to different governmental entities including States, counties, cities, towns, special purpose districts (such as school districts), etc.

covered juridictions—a general term referring collectively to different governmental entities that are covered by the special provisions of the Voting Rights Act.

GENERAL PROVISIONS

The general provisions of the Voting Rights Act of 1965, as amended in 1970 and 1975, are permanent and apply everywhere in the United States. These provisions:

- limit the use of certain voter qualifications;
- authorize suits in Federal court that seek to enforce voting rights by having the special provisions of the Voting Rights Act apply to States or local jurisdictions not already covered;
- establish criminal penalties for certain acts related to voting.

VOTER QUALIFICATIONS

Traditionally, States have the power to set voter qualifications. Federal law, however, including the Voting Rights Act and other laws, the U.S. Constitution, and Federal court decisions, limits that power and prohibits the use of certain qualifications. In general, any citizen 18 years old or older who meets minimal State and local residence requirements and who has not been found legally insane or convicted of a disqualifying crime may register and vote in local, State, and Federal primary and general elections.

The 15th and 19th amendments to the Constitution provide that States may not deny the right to vote on account of race, color, or sex. Under Federal voting law, States may not require persons to pass literacy tests or pay poll taxes in order to register or vote. The Voting Rights Act requires all States to permit absentee registration and voting for Presidential elections and sets maximum residence requirements (30 days before the election) for voting in any State in Presidential elections. A qualified voter who has moved to a new State or local jurisdiction within 30 days of a Presidential election must be allowed to vote in person or absentee at his or her former place of residence.

CIVIL SUITS AND ATTORNEY'S FEES

The general provisions of the Voting Rights Act authorize Federal courts to impose some or all of the special provisions in jurisdictions not automatically covered upon finding major violations of federally-protected voting rights. The law permits the U.S. Attorney General and private citizens whose voting rights have been violated to ask the courts for this relief. In addition, the Voting Rights Act permits the winning side in a voting rights lawsuit to recover attorney's fees. This provision means that when a court finds that a jurisdiction or public official has failed to protect someone's voting rights, the government involved may be charged for the fees for the voter's lawyer.

CRIMINAL PROVISIONS

The Voting Rights Act makes it a crime for anyone—public officials

or private individuals—to deny persons the right to vote. It is also a crime to:

- attempt to or to threaten, intimidate, or coerce a person to prevent him (her) from voting;
- attempt to or to threaten, intimidate, or coerce a person who urges or helps another person to vote;
- give false information (or conspire with another person to give false information) about eligibility to register to vote in Federal elections;
- give false information to Federal examiners and hearing officers designated to enforce the Voting Rights Act;
- vote more than once in the same Federal election.

These provisions are designed to protect individuals from physical, economic, or other pressures intended to prevent them from voting, and to protect against fraud. For all of these crimes, the Voting Rights Act sets penalties including fines and imprisonment. In addition, the act authorizes the Attorney General to seek injunctions in order to prevent persons from violating the criminal provisions or the other sections of the Voting Rights Act.

SPECIAL PROVISIONS

In addition to the general protections that apply throughout the United States, the Voting Rights Act contains special provisions that apply only in States and localities that meet certain conditions and statistical tests spelled out in the law. Under the Voting Rights Act of 1965, as amended in 1970, special coverage resulted in all covered jurisdictions having to comply with a single set of special provisions. The 1975 amendments added minority language provisions that require some jurisdictions to use one or more languages in addition to English in the electoral process.

Coverage

There are four different coverage formulas (or "triggers") by which the special provisions of the act may be applied to jurisdictions throughout the country. A single jurisdiction may be covered under more than one trigger. Special coverage under each of the four triggers is automatic; after the Attorney General or the Director of the Census has found that a jurisdiction has met the stated conditions for coverage, it must immediately comply with the requirements of special coverage. A covered jurisdiction may seek to be exempted (or "bail out") from special coverage by proving to a Federal court that it should not be covered, but it must comply with the law until it has received such a determination. The act provides standards to be used by Federal courts in determining whether or not a jurisdiction should be exempted.

These triggers and bailout provisions are complex and of more interest to officials in covered jurisdictions than to the average citizen. Even though there are four different triggers, basically only two kinds of special remedies may affect a single jurisdiction and thus directly affect the protections available to the minority voter. Jurisdictions may be affected by the special provisions of the 1965 Voting Rights Act or by the 1975 amendments, or both, by operation of one or more triggers. The basic remedies are not affected by which trigger brings them into force. The major difference in coverage by different triggers is in the requirements for bailout, not in the protections provided to voters.

Jurisdictions come under some or all of the special provisions of the Voting Rights Act if they meet one or more of the following tests:

1) The jurisdiction maintained on November 1, 1964, a test or device as a condition for registering or voting, *and* less than 50 percent of its total voting-age population voted in the 1964 Presidential election;

2) The jurisdiction maintained on November 1, 1968, a test or device as a condition for registering or voting, *and* less than 50 percent of the total voting-age population voted in the 1968 Presidential election;

3) More than 5 percent of the citizens of voting age in the jurisdiction were members of a single language minority group on November 1, 1972, *and* the jurisdiction provided registration and election materials only in English on November 1, 1972 (that is, maintained a test or device as defined in the 1975 amendments), *and* less than 50 percent of the citizens of voting age voted in the 1972 Presidential election;

4) More than 5 percent of the citizens of voting age in the jurisdiction are members of a single language minority group, *and* the illiteracy rate of such persons as a group is higher than the national illiteracy rate.

Jurisdictions covered only by the first or second trigger are subject only to the special provisions of the original Voting Rights Act (see table 1). Jurisdictions covered only by the fourth trigger are subject only to the minority language provisions (see table 2). Jurisdictions covered by the third trigger must comply with the special provisions of the 1965 act *and* the minority language provisions (see table 3).

The four triggers apply to States and to counties, parishes, or towns within States that are not covered as a whole. In some instances, whole States are covered by one or more of the first three triggers. For example, the whole State of Alabama was covered under the first trigger and, by the extensions of the Voting Rights Act in 1970 and 1975, the State remains covered by that trigger. A number of counties in North Carolina were covered by the 1965 act, but the entire State was not. Similarly, the entire State of Texas

is covered under the third trigger, but only a few California counties are covered, and the entire State is not.

In jurisdictions covered by the first three triggers, statewide coverage means that all the State's political subdivisions are also covered. The fourth trigger, however, has a special exemption provision so that even if a State meets the two tests, counties in which less than 5 percent of the citizens of voting age are members of the language minority group are exempted from the minority language requirements. Thus, for example, although California as a State is covered by the fourth trigger, some of its counties contain less than 5 percent Spanish heritage citizens of voting age, and these counties are therefore exempted.

The special provisions of the Voting Rights Act are temporary. All four triggers have bailout provisions. In order to end special coverage under the first three triggers, a jurisdiction must file suit in the U.S. District Court for the District of Columbia and prove that its test or device was not used with a discriminatory purpose or effect for a previous period of years (17 years under the first two triggers and 10 years under the third).

Jurisdictions, for example, that were covered under the first trigger in 1965 may find it difficult to make that proof and therefore may not be able successfully to bring a bailout suit before August 6, 1982. Similarly, jurisdictions covered under the third trigger that had English-only elections in 1972 may find it difficult to prove to the court before August 6, 1985, that they have had a discrimination-free system for 10 years. Some jurisdictions may be able to bail out before 1982 or 1985, and all jurisdictions, if they have not continued to use a discriminatory test or device, should be able to bail out after the appropriate number of years has passed.

Bailout under the fourth trigger is somewhat different. Jurisdictions covered under that trigger can bring bailout suits in local Federal courts, and they need only prove that the illiteracy rate for the applicable language minority group(s) is equal to or less than the national rate. That is, no specific time period would be involved in their bailout suits, but only another statistical test. In any event, the provisions containing the fourth trigger automatically expire on August 6, 1985.

Enforcement of the special provisions of the Voting Rights Act is carried out by the Voting Section of the Civil Rights Division of the Department of Justice, under the supervision of the Attorney General. Individuals who wish to complain about discrimination in the electoral process or to provide information to the Justice Department should contact the Voting Section or the Assistant Attorney General for Civil Rights. Other Federal agencies, particularly the Census Bureau and the Civil Service Commission, in addition to the Federal courts, also have more limited responsibilities for enforcement of the special provisions.

SPECIAL PROVISIONS OF THE 1965 ACT

The original Voting Rights Act provides for three kinds of direct Federal involvement in the electoral processes of jurisdictions covered by the first three triggers mentioned above. These are the authority for the use of Federal examiners and Federal observers and the requirement for Federal clearance of changes in a covered jurisdiction's election laws and practices (often called "section 5 review"). Tables 1 and 3 list all the jurisdictions that were subject to these special provisions as of March 1, 1975.

Federal Examiners

Section 6 of the Voting Rights Act authorizes the Attorney General to have the Civil Service Commission appoint Federal examiners to list citizens eligible for registration in their local jurisdictions. In order to do this, the Attorney General must:

1) have received 20 meritorious written complaints from residents of the locality charging discriminatory denial of the right to vote, *or*
2) believe that the appointment of examiners is necessary to enforce voting rights protected by the 14th and 15th amendments.

After the Attorney General has made such a finding, the Civil Service Commission sets the times, places, and procedures for the examiners to interview and list for registration persons who satisfy the State qualifications that do not violate Federal law. Usually the examiners open an office in a local Federal building. There should be local publicity about their presence and their office hours.

Federal examiners do not completely replace local registration officials, but they do provide an alternate means of registration. The examiners give qualified voters a certificate stating that they are eligible to vote in any election and give the local election officials a list of the voters to be included in the official registration list.

Voters certified by examiners must be permitted to vote by local officials. The Voting Rights Act permits challenging the qualifications of a person listed by the examiners, but such a voter must be considered eligible and allowed to vote until a Civil Service Commission hearing officer and the U.S. Court of Appeals uphold a challenge. Only if the challenge is upheld may the name of a voter certified by the examiners be removed from the list and the person be denied a ballot.

Federal examiners are also available during elections to protect the voting rights of persons who are properly registered or listed. If such persons are not permitted to vote, they may complain to the examiner within 48 hours of the closing of the polls. If the examiner believes that a complaint has merit, he or she must

immediately inform the U.S. Attorney General who may then seek a Federal court order allowing the person to vote and suspending the election results until that vote has been counted.

Other sections of the law provide general procedures for the use of Federal examiners. These include requirements for timely notification to the local officials of the names of listed voters and provisions for ending the assignment of examiners in a local jurisdiction.

The use of Federal examiners is not automatic. The law assumes that registration in covered jurisdictions will be nondiscriminatory, and most examiners were used in the very early years of the Voting Rights Act. Examiners have been used, however, as recently as 1975, and they can be used at any time in jurisdictions subject to this authority.

A person who believes that local officials are registering voters in a discriminatory fashion should immediately notify the Justice Department. In order to be effective, examiners must be appointed several months before an election takes place. For jurisdictions listed in tables 1 and 3, the Attorney General can direct the appointment of examiners, but a lawsuit filed by affected citizens or the Attorney General is necessary to get examiners appointed for any other jurisdiction.

Federal Observers

The Attorney General may also request the Civil Service Commission to appoint observers for counties or other local jurisdictions that have been designated for examiners. Observers can be appointed even if examiners have not actually served in the locality.

Federal observers act as poll watchers at local polling places. Their job is to see if all eligible voters are allowed to vote and if all ballots are accurately counted. They also may observe the way local election officials (or others) assist voters who request help in marking their ballots, if the voter consents. The persons who act as Federal observers are usually employees of the Civil Service Commission or another Federal agency and from a different State than the one where the election is held.

The Federal observers do not run the election; even where observers are serving, local officials still manage the polls. The observers just watch what happens at their assigned polling places and report what they have seen to the Justice Department. Usually a Justice Department attorney is present in a locality where observers are serving. The observers' reports may be used in court if the Justice Department decides to challenge the conduct of the election.

In deciding whether to request observers, the Attorney General considers such factors as local past practices, whether minority candidates suffered discrimination or encountered racial problems

in campaigning for office, and the views of local residents on whether fair elections can be expected without observers. A person who thinks observers are necessary to ensure that an election is fairly run without racial considerations should contact the Justice Department. The Attorney General can move quickly to have observers sent to jurisdictions listed in tables 1 and 3, but again, a lawsuit would be necessary to have observers appointed for any other jurisdiction.

Federal Review of Voting Changes (Section 5 Review)

The third form of direct Federal involvement in the State and local electoral process that occurs under the special provisions of the 1965 act is known as section 5 review. The jurisdictions subject to section 5 are listed in tables 1 and 3.

Section 5 of the Voting Rights Act requires covered jurisdictions to submit all changes in laws, practices, and procedures affecting voting to either the U.S. Attorney General or the U.S. District Court for the District of Columbia for a ruling that the changes do not discriminate against racial or language minorities. Entirely new electoral provisions in covered jurisdictions are also considered changes and must be cleared under section 5. Jurisdictions almost always submit their changes to the Attorney General, rather than to the court. Section 5 coverage is automatic: it does not require a separate decision by the Attorney General as use of examiners or observers does. Any jurisdiction covered by the original special provisions is immediately subject to the section 5 review requirement.

Jurisdictions covered by the 1965 act (the first trigger listed above) must submit all changes made after November 1, 1964. Jurisdictions covered by the 1970 amendments (the second trigger) must submit all changes made after November 1, 1968, and jurisdictions covered by the 1975 amendments (the third trigger) must submit all changes made after November 1, 1972.

Under section 5, it is the responsibility of the covered jurisdiction to submit its changes and prove that they are not discriminatory. It is a violation of the Voting Rights Act for a jurisdiction to enforce or administer a change in electoral laws and practices that has not received section 5 clearance from the Attorney General or the court. The section 5 requirement applies to States covered as a whole, to the political subdivisions within States covered as a whole, and to political subdivisions that are covered separately. All political units within such covered jurisdictions (such as cities, towns, school districts, etc.) are also subject to section 5.

The purpose of section 5 review is to ensure that State and local officials do not use their power over election laws and practices for the purpose or with the effect of discriminating against protected minorities. The Attorney General has 60 days in which to make a determination concerning a submission. If the Attorney General

does not object, a change may be enforced. If the Attorney General does object, the change may not be enforced, and the jurisdiction must abandon the change, modify it until it is cleared, or try to persuade the court that the change is not discriminatory. It is a violation of the Voting Rights Act for a jurisdiction to enforce a change to which the Attorney General has objected.

The U.S. Supreme Court and Congress have interpreted the reach of section 5 very broadly. *All* changes in election laws and practices must be submitted, even if they seem to be very minor. For example, all of the following types of changes (as well as many others) must be submitted and cleared before they can go into effect:

- amendments (affecting voting) to a State constitution or a city charter
- annexations
- changes in the qualifications for, or the times and places of, registration and voting (including changes in a voter's polling place)
- changes in precinct boundaries
- changes in the qualifications for, or terms of, offices
- changes in the nature of offices (such as changing from elective to appointive, or the reverse, and changing the duties of an office)
- changes in the boundary lines for representative districts for such offices as city councils, school boards, county commissions, State legislatures, and the U.S. Congress (including changing from several districts to one district for all representatives)
- provisions for bilingual or multilingual elections

When a jurisdiction submits a change, it must provide an explanation of the reason for the change, its likely impact, and supporting materials. The Justice Department has published guidelines for compliance with section 5. While the Justice Department staff is considering a submission, private citizens and groups may offer their own comments on the change by writing to the Voting Section. Since the Attorney General usually must act on a submission within 60 days, it is important to send comments as early as possible after the submission. Often the only way the Justice Department can discover that a seemingly fair change actually will discriminate against racial or language minorities is through the comments of the local residents. For section 5 review to be fully effective, it is essential that citizens monitor and comment on changes in election laws and practices.

Each week the Justice Department publishes a list of the submissions made under section 5. The list shows, by date of submission, all the changes that have been submitted by States and local jurisdictions. Any person who is interested in knowing what changes have been submitted may obtain the list, free of charge,

by writing to the Voting Section and asking to be placed on the mailing list for the "section 5 weekly submission list."

By reading the list each week, individuals can discover what changes their States or local jurisdictions have submitted and can then send their comments to the Attorney General. By regularly reading the list, a person might also discover that a change he or she knows about has not been submitted. This information is also important to the Justice Department and usually cannot be discovered except through residents of the jurisdiction.

Individuals who know that a covered jurisdiction is enforcing a change that has not been submitted, or is enforcing a change that the Attorney General has objected to, may file suit in the local Federal court to prevent enforcement of the change or contact the Attorney General, who also can file such a suit.

Section 5 review and the authority to use Federal examiners and observers provide the Federal Government with powerful tools to ensure that covered jurisdictions do not discriminate against minority voting rights. They are most effective when individuals also monitor their local officials and election systems and inform the Justice Department of local problems.

MINORITY LANGUAGE PROVISIONS (1975 AMENDMENTS)

The 1975 amendments to the Voting Rights Act added the minority language provisions to the special provisions of the act. These provisions require covered jurisdictions to conduct elections in one or more languages in addition to English. Although a jurisdiction may come under this requirement in two ways (the third and fourth triggers described above), the requirement is the same for all covered jurisdictions.

Most jurisdictions must add one language (most often Spanish) but a few must use two or more minority languages in the electoral process. Only the languages of the groups specified in the act must be used. The jurisdictions covered by the minority language provisions and the specified language minority groups are listed in tables 2 and 3.

The minority language requirements of the Voting Rights Act are intended to ensure that American citizens are not deprived of the right to vote because they cannot read, write, or speak English. The basic principle is that a covered jurisdiction conducting registration and voting must take the necessary steps to enable the language minority citizen to exercise his or her voting rights as effectively as English-speaking voters exercise theirs.

Since State and local governments have the primary responsibility for conducting elections, they also have the primary responsibility for implementing the minority language provisions of the Voting Rights Act. The Federal Government, through the Justice Department, is responsible for monitoring the steps taken by

covered jurisdictions to comply with the requirements and for enforcing them through the courts if necessary. The Justice Department has issued guidelines for compliance with the minority language provisions.

The language of the Voting Rights Act and of the guidelines is rather general. Because the new requirements affect localities as small as Loving County, Texas, with its population of less than 200 persons, and as large as Los Angeles County, California, with its population of more than 7 million persons, and because different areas have different election procedures, the actual steps a jurisdiction must take to implement the law vary somewhat with local circumstances.

For example, where the required minority language is currently or traditionally unwritten, such as most American Indian languages, the jurisdiction need provide in that language only oral publicity and oral assistance at registration and polling places. Similarly, a small jurisdiction using paper ballots may be more able to convert to a totally bilingual election than a large jurisdiction using voting machines that limit the size of the ballot.

Also, some jurisdictions provide much more information to the public about elections or are more active in seeking to register voters than others. Because the details of election systems and procedures in different covered jurisdictions vary widely, it is impossible to outline all the ways in which the minority language requirements affect local practices.

In passing these requirements, Congress was particularly concerned that information directly related to registration and voting be as available to language minority citizens as to others. *As a minimum, citizens in covered jurisdictions have a right to expect that their local election officials will provide oral, and where appropriate written, assistance and information in the appropriate minority language(s). Publicity concerning elections and registration qualifications and times should also be provided in the appropriate minority language(s).*

For example:

- if applicants for registration must fill out forms, the forms must be provided in the minority language(s) as well as in English;
- the voter registration officials must include persons able to speak the minority language(s) in addition to English;
- signs and instructions at registration and voting places must be in the minority language(s) as well as in English;
- the election workers who manage the polling places must include persons who can speak the minority language(s) in addition to English;
- election notices and the like must be published and broadcast in minority language media as well as in the English media.

In general, official information concerning the electoral process must be available to the language minority citizen in his or her

own language. The Voting Rights Act does not require covered States and local jurisdictions to provide any specific type of information to their citizens and voters, but it does require them to provide the information they do offer in the appropriate minority language(s) as well as in English. Jurisdictions in California, for example, that usually provide extensive voter information handbooks concerning candidates and issues on the ballot must publish the handbooks in Spanish (and also in Chinese in San Francisco) as well as in English.

Some jurisdictions that are now subject to the Federal minority language requirements have already been using languages other than English in their elections. For example, some cities in New York State have been holding elections in Spanish and English because of Federal court orders. In other areas—for example, some places in California—a State law has required the use of Spanish or other minority language election materials in recent years.

These jurisdictions must now satisfy *both* the Federal and the State requirements. If the Federal requirements are more strict, they prevail. In many other jurisdictions, however, elections have always been conducted only in English, so the new provisions will require important changes in the usual manner of conducting registration and voting. The Voting Rights Act sets minimum requirements. States and local jurisdictions may have additional or more stringent minority language requirements if they wish.

As noted above, the covered jurisdictions themselves have the primary responsibility for complying with the minority language provisions of the Voting Rights Act. Individuals who want to know what steps their own State or local government is taking to implement these provisions should consult local election officials. If a jurisdiction is covered by the 1975 Voting Rights Act amendments and has not bailed out, then it *must* take some steps, and people have a right to know what they are.

Persons who believe that their State or local government is not taking any steps, or is not taking enough steps, to make the electoral process more accessible to language minority citizens should notify the Civil Rights Division of the Justice Department and ask that an investigation be made. If a jurisdiction does not comply with the new requirements, the Justice Department—or individuals whose rights are denied—may sue the local or State government under the Voting Rights Act.

Some jurisdictions newly covered by these provisions have established a local advisory committee of language minority citizens to advise the government about the needs of language minority citizens and the most effective way to protect their voting rights. A person can find out whether there is such a group in his or her locality by contracting local election officials. If your community is covered by the Voting Rights Act, but does not have such an

advisory committee, you can ask that the local government set one up and include representatives of the minority community. While they are not required by the act, such groups may be very helpful in implementing the law.

CONCLUSION

The Voting Rights Act contains an array of different provisions, some of which apply throughout the country and some of which apply only in those States and local jurisdictions that meet the conditions and tests spelled out in the act's four triggers. The special provisions described in this pamphlet ensure added protection of the voting rights of minority citizens in covered jurisdictions. In addition, individuals, as well as the Justice Department, can sue in Federal court and ask the court to impose the special provisions in jurisdictions that are not already covered in order to overcome discrimination in the electoral process.

The purpose of the Voting Rights Act is to ensure that no citizen's right to vote is denied or impaired because of racial or language discrimination. While the act is a strong and effective law, the greatest protection for voting rights rests in citizens knowing what their rights are and how to protect them if their State or local government does not.

Table 1. COVERAGE LIMITED TO ORIGINAL SPECIAL PROVISIONS OF THE VOTING RIGHTS ACT, as of March 1, 1978

Jurisdictions in this category are subject only to the original special provisions of the Voting Rights Act. They *may* be designated for Federal examiners and observers and *must* submit changes in their election laws and practices for Federal clearance, but they are not required to conduct their elections in languages other than English.

State/County

ALABAMA

CONNECTICUT
(Towns)
Groton
Mansfield
Southbury

GEORGIA

IDAHO
Elmore

LOUISIANA*

MAINE (Towns)
Beddington
Carroll Pltn.
Charleston
Chelsea
Connor Unorg. Terr.
Cutter
Limestone
Ludlow
Nashville Pltn.
New Gloucester
Reed Pltn.
Somerville Pltn.
Waldo
Webster
Winter Harbor
Woodland

MASSACHUSETTS
(Towns)
Amherst
Ayer

State/County

MASSACHUSETTS
(Towns) (Cont'd)
Belchertown
Bourne
Harvard
Sandwich
Shirley
Sunderland
Wrentham

MISSISSIPPI*

NEW HAMPSHIRE
(Towns)
Antrim
Benton
Boscawen
Millsfield Twp.
Newington
Pinkhams Grant
Rindge
Stewartstown
Stratford
Unity

NORTH CAROLINA
Anson
Beaufort
Bertie
Bladen
Camden
Caswell
Chowan
Cleveland
Craven
Cumberland
Edgecombe

State/County

NORTH CAROLINA
(Cont'd)
Franklin
Gaston
Gates
Granville
Greene
Guilford
Halifax
Harnett
Hertford
Lee
Lenoir
Martin
Nash
Northampton
Onslow
Pasquotank
Perquimans
Person
Pitt
Rockingham
Scotland
Union
Vance
Washington
Wayne
Wilson

SOUTH CAROLINA

VIRGINIA*

WYOMING
Campbell

* St. Bernard Parish, La., Neshoba Co., Miss., and Charles City Co., Va., must also conduct bilingual elections. See table 3.

Table 2. COVERAGE LIMITED TO MINORITY LANGUAGE PROVISIONS OF THE VOTING RIGHTS ACT, as of March 1, 1976

Jurisdictions in this category are subject only to the minority language provisions of the Voting Rights Act. They *must* conduct their elections in the language(s) appropriate for the listed language minority group(s). (For convenience all Spanish heritage groups are listed as "Spanish.")

State/County	*Language Minority Group*
CALIFORNIA	
Alameda	Spanish
Amador	Spanish
Colusa	Spanish
Contra Costa	Spanish
Fresno	Spanish
Imperial	Spanish
Inyo	American Indian
Kern	Spanish
Lassen	Spanish
Los Angeles	Spanish
Madera	Spanish
Napa	Spanish
Orange	Spanish
Placer	Spanish
Riverside	Spanish
Sacramento	Spanish
San Benito	Spanish
San Bernardino	Spanish
San Diego	Spanish
San Francisco	Spanish, Chinese
San Joaquin	Spanish
San Luis Obispo	Spanish
San Mateo	Spanish
Santa Barbara	Spanish
Santa Clara	Spanish
Santa Cruz	Spanish
Sierra	Spanish
Solano	Spanish
Sonoma	Spanish
Stanislaus	Spanish
Sutter	Spanish
Tulare	Spanish
Tuolumne	Spanish
Ventura	Spanish
Yolo	Spanish

State/County	*Language Minority Group*
COLORADO	
Adams	Spanish
Alamosa	Spanish
Archuleta	Spanish
Bent	Spanish
Boulder	Spanish
Chaffee	Spanish
Clear Creek	Spanish
Conejos	Spanish
Costilla	Spanish
Crowley	Spanish
Delta	Spanish
Denver	Spanish
Eagle	Spanish
Fremont	Spanish
Huerfano	Spanish
Jackson	Spanish
Lake	Spanish
La Plata	Spanish
Las Animas	Spanish
Mesa	Spanish
Moffat	Spanish
Montezuma	Spanish, American Indian
Montrose	Spanish
Morgan	Spanish
Otero	Spanish
Prowers	Spanish
Pueblo	Spanish
Rio Grande	Spanish
Saguache	Spanish
San Juan	Spanish
San Miguel	Spanish
Sedgwick	Spanish
Weld	Spanish

Table 2. COVERAGE LIMITED TO MINORITY LANGUAGE PROVISIONS OF THE VOTING RIGHTS ACT, as of March 1, 1976 (Cont'd)

State/County	Language Minority Group
CONNECTICUT (Towns)	
Bridgeport	Spanish
FLORIDA	
Collier	Spanish
Dade	Spanish
Glades	American Indian
Hendry	Spanish
HAWAII	
Hawaii	Filipino, Japanese
Kauai	Filipino, Japanese
Maui	Filipino, Japanese
IDAHO	
Bingham	American Indian
Cassia	Spanish
KANSAS	
Finney	Spanish
Grant	Spanish
Wichita	Spanish
MAINE (Towns)	
Perry	American Indian
MICHIGAN	
Orangeville Twp. (Barry Co.)	Spanish
Sugar Island Twp. (Chippewa Co.)	American Indian
Imlay Twp. (Lapeer Co.)	Spanish
Adrian City (Lenawee Co.)	Spanish
Madison Twp. (Lenawee Co.)	Spanish
Grant Twp. (Newaygo Co.)	Spanish
MICHIGAN (Cont'd)	
Buena Vista Twp. (Saginaw Co.)	Spanish
Saginaw City (Saginaw Co.)	Spanish
MINNESOTA	
Beltrami	American Indian
Cass	American Indian
Mahnomen	American Indian
MONTANA	
Blaine	American Indian
Glacier	American Indian
Hill	American Indian
Lake	American Indian
Roosevelt	American Indian
Rosebud	American Indian
Valley	American Indian
NEBRASKA	
Scotts Bluff	Spanish
Thurston	American Indian
NEVADA	
Elko	Spanish, American Indian
Mineral	American Indian
Nye	Spanish
White Pine	Spanish
NEW MEXICO	
Bernalillo	Spanish
Catron	Spanish
Chaves	Spanish
Colfax	Spanish
De Baca	Spanish
Dona Ana	Spanish
Eddy	Spanish
Grant	Spanish
Guadalupe	Spanish
Harding	Spanish

Table 2. COVERAGE LIMITED TO MINORITY LANGUAGE PROVISIONS OF THE VOTING RIGHTS ACT, as of March 1, 1976 (Cont'd)

State/County	*Language Minority Group*
NEW MEXICO (Cont'd)	
Hidalgo	Spanish
Lea	Spanish
Lincoln	Spanish
Los Alamos	Spanish
Luna	Spanish
Mora	Spanish
Quay	Spanish
Rio Arriba	American Indian, Spanish
Roosevelt	Spanish
Sandoval	American Indian, Spanish
San Juan	American Indian, Spanish
San Miguel	Spanish
Sante Fe	Spanish
Sierra	Spanish
Socorro	Spanish
Taos	American Indian, Spanish
Torrance	Spanish
Union	Spanish
Valencia	American Indian, Spanish
NORTH CAROLINA	
Swain	American Indian
NORTH DAKOTA	
Benson	American Indian
Dunn	American Indian
McKenzie	American Indian
Mountrail	American Indian
Rolette	American Indian
OKLAHOMA	
Adair	American Indian
Blaine	American Indian
Caddo	American Indian
Cherokee	American Indian
Coal	American Indian
Craig	American Indian
Delaware	American Indian
Harmon	Spanish
Hughes	American Indian
Johnson	American Indian
Latimer	American Indian
McIntosh	American Indian
Mayes	American Indian
Ofuskee	American Indian
Okmulgee	American Indian
Osage	American Indian
Ottawa	American Indian
Pawnee	American Indian
Pushmataha	American Indian
Rogers	American Indian
Seminole	American Indian
Sequoyah	American Indian
Tillman	Spanish
OREGON	
Jefferson	American Indian
Malheur	Spanish
SOUTH DAKOTA	
Bennett	American Indian
Charles Mix	American Indian
Corson	American Indian
Lyman	American Indian
Mellette	American Indian
Washabaugh	American Indian
UTAH	
Carbon	Spanish
San Juan	American Indian
Tooele	Spanish
Uintah	American Indian
WASHINGTON	
Adams	Spanish
Columbia	Spanish
Ferry	American Indian

Table 2. COVERAGE LIMITED TO MINORITY LANGUAGE PROVISIONS OF THE VOTING RIGHTS ACT, as of March 7, 1976 (Cont'd)

State/County	*Language Minority Group*
WASHINGTON (Cont'd)	
Grant	Spanish
Okanogan	American Indian
Yakima	Spanish
WISCONSIN (Towns)	
Nashville (Forest Co.)	American Indian
Bovina (Outagamie Co.)	Spanish
Oneida	
(Outagamie Co.)	American Indian
Hayward City (Sawyer Co.)	Spanish
WYOMING	
Carbon	Spanish
Fremont	American Indian
Laramie	Spanish
Sweetwater	Spanish
Washakie	Spanish

Table 3. COMBINED COVERAGE UNDER THE VOTING RIGHTS ACT, as of March 1, 1976

Jurisdictions in this category are subject to all the special provisions of the Voting Rights Act. These jurisdictions *may* be designated for Federal examiners and observers, *must* submit changes in electoral laws and practices for Federal clearance, and *must* conduct their elections in the language(s) appropriate for the listed language minority group(s). (For convenience all Spanish heritage groups are listed as "Spanish.")

State/County	*Language Minority Group*
ALASKA	Native Alaskan (Statewide)
ARIZONA	Spanish (Statewide)
Apache	American Indian
Coconino	American Indian
Gila	American Indian
Graham	American Indian
Mohave	American Indian
Navajo	American Indian
Pinal	American Indian
CALIFORNIA	
Kings	Spanish
Merced	Spanish
Monterey	Spanish
Yuba	Spanish
COLORADO	
El Paso	Spanish
FLORIDA	
Hardee	Spanish
Hillsborough	Spanish
Monroe	Spanish
HAWAII	
Honolulu	Chinese, Filipino
LOUISIANA	
St. Bernard Parish	Spanish
MISSISSIPPI	
Neshoba	American Indian
NEW MEXICO	
Curry	Spanish
McKinley	American Indian, Spanish
Otero	Spanish
NEW YORK	
Bronx	Spanish
Kings	Spanish
New York	Spanish
NORTH CAROLINA	
Hoke	American Indian
Jackson	American Indian
Robeson	American Indian
OKLAHOMA	
Choctaw	American Indian
McCurtain	American Indian
SOUTH DAKOTA	
Shannon	American Indian
Todd	American Indian
TEXAS	Spanish (Statewide)
VIRGINIA	
Charles City	American Indian

THE VOTING RIGHTS ACT OF 1965,
AS AMENDED IN 1970 AND 1975
(42 U.S.C. 1973 et seq.)

25

VOTING RIGHTS ACT OF 1965

Public Law 91-285

PUBLIC LAW 89-110, 89TH CONGRESS, S. 1564,
AUGUST 6, 1965

AN ACT To enforce the fifteenth amendment to the Constitution of the United States, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act shall be known as the "Voting Rights Act of 1965".

TITLE I—VOTING RIGHTS

Public Law 94-73

SEC. 2. No voting qualification or prerequisite to voting, or standard, practice, or procedure shall be imposed or applied by any State or political subdivision to deny or abridge the right of any citizen of the United States to vote on account of race or color, or in contravention of the guarantees set forth in section 4(f)(2).

Public Law 94-73

SEC. 3. (a) Whenever the Attorney General or an aggrieved person institutes a proceeding under any statute to enforce the voting guarantees of the fourteenth or fifteenth amendment in any State or political subdivision the court shall authorize the appointment of Federal examiners by the United States Civil Service Commission in accordance with section 6 to serve for such period of time and for such political subdivisions as the court shall determine is appropriate to enforce the voting guarantees of the fourteenth or fifteenth amendment (1) as part of any interlocutory order if the court determines that

the appointment of such examiners is necessary to enforce such voting guarantees or (2) as part of any final judgment if the court finds that violations of the fourteenth or fifteenth amendment justifying equitable relief have occurred in such State or subdivision: *Provided*, That the court need not authorize the appointment of examiners if any incidents of denial or abridgement of the right to vote on account of race or color, or in contravention of the guarantees set forth in section 4(f)(2), (1) have been few in number and have been promptly and effectively corrected by State or local action, (2) the continuing effect of such incidents has been eliminated, and (3) there is no reasonable probability of their recurrence in the future.

Public Law 94-73

(b) If in a proceeding instituted by the Attorney General or an aggrieved person under any statute to enforce the voting guarantees of the fourteenth or fifteenth amendment in any State or political subdivision the court finds that a test or device has been used for the purpose or with the effect of denying or abridging the right of any citizen of the United States to vote on account of race or color, or in contravention of the guarantees set forth in section 4(f)(2), it shall suspend the use of tests and devices in such State or political subdivisions as the court shall determine is appropriate and for such period as it deems necessary.

Public Law 93-373

(c) If any proceeding instituted by the Attorney General or an aggrieved person under any statute to enforce the voting guarantees of the fourteenth or fifteenth amendment in any State or political subdivision the court finds that violations of the fourteenth or fifteenth amendment justifying equitable relief have occurred within the territory of such State or political subdivision, the court, in addition to such relief as it may grant, shall retain jurisdiction for such period as it may deem appropriate and during such period no voting qualification or prerequisite to voting, or standard, practice, or procedure with respect to voting different from that in force or effect at the time the proceeding was commenced shall be enforced unless and until the court finds that such qualification, prerequisite, standard, practice, or procedure does not have the purpose and will not have the effect of denying or abridging the right to vote on account of race or color, or in contravention of the guarantees set forth in section 4(f)(2): *Provided*, That such qualification, prerequisite, standard, practice, or procedure may be enforced if the qualification, prerequisite, standard, practice, or procedure has been submitted by the chief legal officer or other appropriate official of such State or subdivision to the Attorney General and the Attorney General has not interposed an objection within sixty days

after such submission, except that neither the court's finding nor the Attorney General's failure to object shall bar a subsequent action to enjoin enforcement of such qualification, prerequisite, standard, practice, or procedure.

Public Law 94-73
Public Law 91-285

SEC. 4. (a) To assure that the right of citizens of the United States to vote is not denied or abridged on account of race or color, no citizen shall be denied the right to vote in any Federal, State, or local election because of his failure to comply with any test or device in any State with respect to which the determinations have been made under the first two sentences of subsection (b) or in any political subdivision with respect to which such determinations have been made as a separate unit, unless the United States District Court for the District of Columbia in an action for a declaratory judgment brought by such State or subdivision against the United States has determined that no such test or device has been used during the seventeen years preceding the filing of the action for the purpose or with the effect of denying or abridging the right to vote on account of race or color: *Provided*, That no such declaratory judgment shall issue with respect to any plaintiff for a period of seventeen years after the entry of a final judgment of any court of the United States, other than the denial of a declaratory judgment under this section, whether entered prior to or after the enactment of this Act, determining that denials or abridgments of the right to vote on account of race or color through the use of such tests or devices have occurred anywhere in the territory of such plaintiff. No citizen shall be denied the right to vote in any Federal, State, or local election because of his failure to comply with any test or device in any State with respect to which the determinations have been made under the third sentence of subsection (b) of this section or in any political subdivision with respect to which such determinations have been made as a separate unit, unless the United States District Court for the District of Columbia in an action for a declaratory judgment brought by such State or subdivision against the United States has determined that no such test or device has been used during the ten years preceding the filing of the action for the purpose or with the effect of denying or abridging the right to vote on account of race or color, or in contravention of the guarantees set forth in section 4(f)(2): *Provided*, That no such declaratory judgment shall issue with respect to any plaintiff for a period of ten years after the entry of a final judgment of any court of the United States, other than the denial of a declaratory judgment under this section, whether entered prior to or after the enactment of this

paragraph, determining that denials or abridgments of the right to vote on account of race or color, or in contravention of the guarantees set forth in section 4(f)(2) through the use of tests or devices have occurred anywhere in the territory of such plaintiff.

An action pursuant to this subsection shall be heard and determined by a court of three judges in accordance with the provisions of section 2284 of title 28 of the United States Code and any appeal shall lie to the Supreme Court. The court shall retain jurisdiction of any action pursuant to this subsection for five years after judgment and shall reopen the action upon motion of the Attorney General alleging that a test or device has been used for the purpose or with the effect of denying or abridging the right to vote on account of race or color, or in contravention of the guarantees set forth in section 4(f)(2).

Public Law 94-73

If the Attorney General determines that he has no reason to believe that any such test or device has been used during the seventeen years preceding the filing of an action under the first sentence of this subsection for the purpose or with the effect of denying or abridging the right to vote on account of race or color, he shall consent to the entry of such judgment.

Public Law 91-285

If the Attorney General determines that he has no reason to believe that any such test or device has been used during the ten years preceding the filing of an action under the second sentance of this subsection for the purpose or with the effect of denying or abridging the right to vote on account of race or color, or in contravention of the guarantees set forth in section 4(f)(2) he shall consent to the entry of such judgment.

(b) The provisions of subsection (a) shall apply in any State or in any political subdivision of a State which (1) the Attorney General determines maintained on November 1, 1964, any test or device, and with respect to which (2) the Director of the Census determines that less than 50 per centum of the persons of voting age residing therein were registered on November 1, 1964, or that less than 50 per centum of such persons voted in the presidential election of November 1964. On and after August 6, 1970, in addition to any State or political subdivision of a State determined to be subject to subsection (a) pursuant to the previous sentence, the provisions of subsection (a) shall apply in any State or any political subdivision of a State which (i) the Attorney General determines maintained on November 1, 1968, any test or device, and with respect to which (ii) the Director of the Census determines that less than 50 per centum of the persons of voting age residing therein were registered on November 1, 1968, or that less than 50 per centum of such persons voted in the presidential election of November 1968.

On and after August 6, 1975, in addition to any State or political subdivision of a State determined to be subject to subsection (a) pursuant to the previous two sentences, the provisions of subsection (a) shall apply in any State or any political subdivision of a State which (i) the Attorney General determines maintained on November 1, 1972, any test or device, and with respect to which (ii) the Director of the Census determines that less than 50 per centum of the citizens of voting age were registered on November 1, 1972, or that less than 50 per centum of such persons voted in the Presidential election of November 1972. Public Law 94-73

A determination or certification of the Attorney General or of the Director of the Census under this section or under section 6 or section 13 shall not be reviewable in any court and shall be effective upon publication in the Federal Register.

(c) The phrase "test or device" shall mean any requirement that a person as a prerequisite for voting or registration for voting (1) demonstrate the ability to read, write, understand, or interpret any matter, (2) demonstrate any educational achievement or his knowledge of any particular subject, (3) possess good moral character, or (4) prove his qualifications by the voucher of registered voters or members of any other class.

(d) For purposes of this section no State or political subdivision shall be determined to have engaged in the use of tests or devices for the purpose or with the effect of denying or abridging the right to vote on account of race or color, or in contravention of the guarantees set forth in section 4(f)(2) if (1) incidents of such use have been few in number and have been promptly and effectively corrected by State or local action, (2) the continuing effect of such incidents has been eliminated, and (3) there is no reasonable probability of their recurrence in the future. Public Law 94-73

(e)(1) Congress hereby declares that to secure the rights under the fourteenth amendment of persons educated in American-flag schools in which the predominant classroom language was other than English, it is necessary to prohibit the States from conditioning the right to vote of such persons on ability to read, write, understand, or interpret any matter in the English language.

(2) No person who demonstrates that he has successfully completed the sixth primary grade in a public school in, or a private school accredited by, any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico in which the predominant classroom language was other than English, shall be denied the right to vote in any Federal, State, or local election because of his inability to read, write, understand, or

interpret any matter in the English language, except that in States in which State law provides that a different level of education is presumptive of literacy, he shall demonstrate that he has successfully completed an equivalent level of education in a public school in, or a private school accredited by, any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico in which the predominant classroom language was other than English.

Public Law 94-73
Public Law 91-285

(f)(1) The Congress finds that voting discrimination against citizens of language minorities is pervasive and national in scope. Such minority citizens are from environments in which the dominant language is other than English. In addition they have been denied equal educational opportunities by State and local governments, resulting in severe disabilities and continuing illiteracy in the English language. The Congress further finds that, where State and local officials conduct elections only in English, language minority citizens are excluded from participating in the electoral process. In many areas of the country, this exclusion is aggravated by acts of physical, economic, and political intimidation. The Congress declares that, in order to enforce the guarantees of the fourteenth and fifteenth amendments to the United States Constitution, it is necessary to eliminate such discrimination by prohibiting English-only elections, and by prescribing other remedial devices.

(2) No voting qualification or prerequisite to voting, or standard, practice, or procedure shall be imposed or applied by any State or political subdivision to deny or abridge the right of any citizen of the United States to vote because he is a member of a language minority group.

(3) In addition to the meaning given the term under section 4(c), the term "test or device" shall also mean any practice or requirement by which any State or political subdivision provided any registration or voting notices, forms, instructions, assistance, or other materials or information relating to the electoral process, including ballots, only in the English language, where the Director of the Census determines that more than five per centum of the citizens of voting age residing in such State or political subdivision are members of a single language minority. With respect to section 4(b), the term "test or device", as defined in this subsection, shall be employed only in making the determinations under the third sentence of that subsection.

(4) Whenever any State or political subdivision subject to the prohibitions of the second sentence of section 4(a) provides any registration or voting notices, forms, instructions, assistance, or other materials or information relating to the electoral process, including ballots, it shall

provide them in the language of the applicable language minority group as well as in the English language: *Provided*, That where the language of the applicable minority group is oral or unwritten, the State or political subdivision is only required to furnish oral instructions, assistance, or other information relating to registration and voting.

Sec. 5. Whenever a State or political subdivision with respect to which the prohibitions set forth in section 4(a) based upon determinations made under the first sentence of section 4(b) are in effect shall enact or seek to administer any voting qualification or prerequisite to voting, or standard, practice, or procedure with respect to voting different from that in force or effect on November 1, 1964, or whenever a State or political subdivision with respect to which the prohibitions set forth in section 4(a) based upon determinations made under the second sentance of section 4(b) are in effect shall enact or seek to administer any voting qualification or prerequisite to voting, or standard, practice, or procedure with respect to voting different from that in force or effect on November 1, 1968, or whenever a State or political subdivision with respect to which the prohibitions set forth in section 4(a) based upon determinations made under the third sentance of section 4(b) are in effect shall enact or seek to administer any voting qualifications or prerequisite to voting, or standard, practice, or procedure with respect to voting different from that in force or effect on November 1, 1972, such State or subdivision may institute an action in the United States District Court for the District of Columbia for a declaratory judgment that such qualification, prerequisite, standard, practice, or procedure does not have the purpose and will not have the effect of denying or abridging the right to vote on account of race or color, or in contravention of the guarantees set forth in section 4(f)(2), and unless and until the court enters such judgment no person shall be denied the right to vote for failure to comply with such qualification, prerequisite, standard, practice, or procedure: *Provided*, That such qualification, prerequisite, standard, practice, or procedure may be enforced without such proceeding if the qualification, prerequisite, standard, practice, or procedure has been submitted by the chief legal officer or other appropriate official of such State or subdivision to the Attorney General and the Attorney General has not interposed an objection within sixty days after such submission, or upon good cause shown, to facilitate an expedited approval within sixty days after such submission, the Attorney General has affirmatively indicated that such objection will not be made. Neither an affirmative indication by the Attorney General that no objection will be made, nor the Attorney General's failure to ob-

Public Law 94-73

ject, nor a declaratory judgment entered under this section shall bar a subsequent action to enjoin enforcement of such qualification, prerequisite, standard, practice, or procedure. In the event the Attorney General affirmatively indicates that no objection will be made within the sixty-day period following receipt of a submission, the Attorney General may reserve the right to reexamine the submission if additional information comes to his attention during the remainder of the sixty-day period which would otherwise require objection in accordance with this section. Any action under this section shall be heard and determined by a court of three judges in accordance with the provisions of section 2284 of title 28 of the United States Code and any appeal shall lie to the Supreme Court.

Public Law 89-73

SEC. 6. Whenever (a) a court has authorized the appointment of examiners pursuant to the provisions of section 3(a), or (b) unless a declaratory judgment has been rendered under section 4(a), the Attorney General certifies with respect to any political subdivision named in, or included within the scope of, determinations made under section 4(b) that (1) he has received complaints in writing from twenty or more residents of such political subdivision alleging that they have been denied the right to vote under color of law on account of race or color, or in contravention of the guarantees set forth in section 4(f)(2), and that he believes such complaints to be meritorious, or (2) that in his judgment (considering, among other factors, whether the ratio of nonwhite persons to white persons registered to vote within such subdivision appears to him to be reasonably attributable to violations of the fourteenth or fifteenth amendment or whether substantial evidence exists that bona fide efforts are being made within such subdivision to comply with the fourteenth or fifteenth amendment), the appointment of examiners is otherwise necessary to enforce the guarantees of the fourteenth or fifteenth amendment, the Civil Service Commission shall appoint as many examiners for such subdivision as it may deem appropriate to prepare and maintain lists of persons eligible to vote in Federal, State, and local elections. Such examiners, hearing officers provided for in section 9(a), and other persons deemed necessary by the Commission to carry out the provisions and purposes of this Act shall be appointed, compensated, and separated without regard to the provisions of any statute administered by the Civil Service Commission, and service under this Act shall not be considered employment for the purposes of any statute administered by the Civil Service Commission, except the provisions of section 9 of the Act of August 2, 1939, as amended (5 U.S.C. 118i), prohibiting partisan political activity: *Provided*, That the Commission is authorized, after con-

sulting the head of the appropriate department or agency, to designate suitable persons in the official service of the United States, with their consent, to serve in these positions. Examiners and hearing officers shall have the power to administer oaths.

SEC. 7. (a) The examiners for each political subdivision shall, at such places as the Civil Service Commission shall by regulation designate, examine applicants concerning their qualifications for voting. An application to an examiner shall be in such form as the Commission may require and shall contain allegations that the applicant is not otherwise registered to vote.

(b) Any person whom the examiner finds, in accordance with instructions received under section 9(b), to have the qualifications prescribed by State law not inconsistent with the Constitution and laws of the United States shall promptly be placed on a list of eligible voters. A challenge to such listing may be made in accordance with section 9(a) and shall not be the basis for a prosecution under section 12 of this Act. The examiner shall certify and transmit such list, and any supplements as appropriate, at least once a month, to the offices of the appropriate election officials, with copies to the Attorney General and the attorney general of the State, and any such lists and supplements thereto transmitted during the month shall be available for public inspection on the last business day of the month and in any event not later than the forty-fifth day prior to any election. The appropriate State or local election official shall place such names on the official voting list. Any person whose name appears on the examiner's list shall be entitled and allowed to vote in the election district of his residence unless and until the appropriate election officials shall have been notified that such person has been removed from such list in accordance with subsection (d): *Provided*, That no person shall be entitled to vote in any election by virtue of this Act unless his name shall have been certified and transmitted on such a list to the offices of the appropriate election officials at least forty-five days prior to such election.

(c) The examiner shall issue to each person whose name appears on such a list a certificate evidencing his eligibility to vote.

(d) A person whose name appears on such a list shall be removed therefrom by an examiner if (1) such person has been successfully challenged in accordance with the procedure prescribed in section 9, or (2) he has been determined by an examiner to have lost his eligibility to vote under State law not inconsistent with the Constitution and the laws of the United States.

SEC. 8. Whenever an examiner is serving under this Act in any political subdivision, the Civil Service Com-

mission may assign, at the request of the Attorney General, one or more persons, who may be officers of the United States, (1) to enter and attend at any place for holding an election in such subdivision for the purpose of observing whether persons who are entitled to vote are being permitted to vote, and (2) to enter and attend at any place for tabulating the votes cast at any election held in such subdivision for the purpose of observing whether votes cast by persons entitled to vote are being properly tabulated. Such persons so assigned shall report to an examiner appointed for such political subdivision, to the Attorney General, and if the appointment of examiners has been authorized pursuant to section 3(a), to the court.

SEC. 9. (a) Any challenge to a listing on an eligibility list prepared by an examiner shall be heard and determined by a hearing officer appointed by and responsible to the Civil Service Commission and under such rules as the Commission shall by regulation prescribe. Such challenge shall be entertained only if filed at such office within the State as the Civil Service Commission shall by regulation designate, and within ten days after the listing of the challenged person is made available for public inspection, and if supported by (1) the affidavits of at least two persons having personal knowledge of the facts constituting grounds for the challenge, and (2) a certification that a copy of the challenge and affidavits have been served by mail or in person upon the person challenged at his place of residence set out in the application. Such challenge shall be determined within fifteen days after it has been filed. A petition for review of the decision of the hearing officer may be filed in the United States court of appeals for the circuit in which the person challenged resides within fifteen days after service of such decision by mail on the person petitioning for review but no decision or a hearing officer shall be reversed unless clearly erroneous. Any person listed shall be entitled and allowed to vote pending final determination by the hearing officer and by the court.

(b) The times, places, procedures, and form for application and listing pursuant to this Act and removals from the eligibility lists shall be prescribed by regulations promulgated by the Civil Service Commission and the Commission shall, after consultation with the Attorney General, instruct examiners concerning applicable State law not inconsistent with the Constitution and laws of the United States with respect to (1) the qualifications required for listing, and (2) loss of eligibility to vote.

(c) Upon the request of the applicant or the challenger or on its own motion the Civil Service Commission shall have the power to require by subpoena the attendance and testimony of witnesses and the production of documen-

tary evidence relating to any matter pending before it under the authority of this section. In case of contumacy or refusal to obey a subpoena, any district court of the United States or the United States court of any territory or possession, or the District Court of the United States for the District of Columbia, within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides or is domiciled or transacts business, or has appointed an agent for receipt of service or process, upon application by the Attorney General of the United States shall have jurisdiction to issue to such person an order requiring such person to appear before the Commission or a hearing officer, there to produce pertinent, relevant, and nonprivileged documentary evidence if so ordered, or there to give testimony touching the matter under investigation; and any failure to obey such order of the court may be punished by said court as a contempt thereof.

SEC. 10. (a) The Congress finds that the requirement of the payment of a poll tax as a precondition to voting (i) precludes persons of limited means from voting or imposes unreasonable financial hardship upon such persons as a precondition to their exercise of the franchise, (ii) does not bear a reasonable relationship to any legitimate State interest in the conduct of elections, and (iii) in some areas has the purpose or effect of denying persons the right to vote because of race or color. Upon the basis of these findings, Congress declares that the constitutional right of citizens to vote is denied or abridged in some areas by the requirement of the payment of a poll tax as a precondition to voting. Public Law 84-73

(b) In the exercise of the powers of Congress under section 5 of the fourteenth amendment, section 2 of the fifteenth amendment and section 2 of the twenty-fourth amendment, the Attorney General is authorized and directed to institute forthwith in the name of the United States such actions, including actions against States or political subdivisions, for declaratory judgment or injunctive relief against the enforcement of any requirement of the payment of a poll tax as a precondition to voting, or substitute therefor enacted after November 1, 1964, as will be necessary to implement the declaration of subsection (a) and the purposes of this section.

(c) The district courts of the United States shall have jurisdiction of such actions which shall be heard and determined by a court of three judges in accordance with the provisions of section 2284 of title 28 of the United States Code and any appeal shall lie to the Supreme Court. It shall be the duty of the judges designated to hear the case to assign the case for hearing at the earliest practicable date, to participate in the hearing and determination thereof, and to cause the case to be in every way expedited.

Sec. 11. (a) No person acting under color of law shall fail or refuse to permit any person to vote who is entitled to vote under any provision of this Act or is otherwise qualified to vote, or willfully fail or refuse to tabulate, count, and report such person's vote.

(b) No person, whether acting under color of law or otherwise, shall intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce any person for voting or attempting to vote, or intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce any person for urging or aiding any person to vote or attempt to vote, or intimidate, threaten, or coerce any person for exercising any powers or duties under section 3(a), 6, 8, 9, 10, or 12(e).

Public Law 94-73

(c) Whoever knowingly or willfully gives false information as to his name, address, or period of residence in the voting district for the purpose of establishing his eligibility to register or vote, or conspires with another individual for the purpose of encouraging his false registration to vote or illegal voting, or pays or offers to pay or accepts payment either for registration to vote or for voting shall be fined not more than $10,000 or imprisoned not more than five years, or both: *Provided, however*, That this provision shall be applicable only to general, special, or primary elections held solely or in part for the purpose of selecting or electing any candidate for the office of President, Vice President, presidential elector, Member of the United States Senate, Member of the United States House of Representatives, Delegate from the District of Columbia, Guam, or the Virgin Islands, or Resident Commissioner of the Commonwealth of Puerto Rico.

(d) Whoever, in any matter within the jurisdiction of an examiner or hearing officer knowingly and willfully falsifies or conceals a material fact, or makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry, shall be fined not more than $10,000 or imprisoned not more than five years, or both.

Public Law 94-73

(e)(1) Whoever votes more than once in an election referred to in paragraph (2) shall be fined not more than $10,000 or imprisoned not more than five years, or both.

(2) The prohibition of this subsection applies with respect to any general, special, or primary election held solely or in part for the purpose of selecting or electing any candidate for the office of President, Vice President, presidential elector, Member of the United States Senate, Member of the United States House of Representatives, Delegate from the District of Columbia, Guam, or the Virgin Islands, or Resident Commissioner of the Commonwealth of Puerto Rico.

(3) As used in this subsection, the term "votes more than once" does not include the casting of an additional ballot if all prior ballots of that voter were invalidated, nor does it include the voting in two jurisdictions under section 202 of this Act, to the extent two ballots are not cast for an election to the same candidacy or office.

Public Law 90-284

SEC. 12. (a) Whoever shall deprive or attempt to deprive any person of any right secured by section 2, 3, 4, 5, 7, or 10 or shall violate section 11(a), shall be fined not more than $5,000, or imprisoned not more than five years, or both.

(b) Whoever, within a year following an election in a political subdivision in which an examiner has been appointed (1) destroys, defaces, mutilates, or otherwise alters the marking of a paper ballot which has been cast in such election, or (2) alters any official record of voting in such election tabulated from a voting machine or otherwise, shall be fined not more than $5,000, or imprisoned not more than five years, or both.

Public Law 90-284

(c) Whoever conspires to violate the provisions of subsection (a) or (b) of this section, or interferes with any right secured by section 2, 3, 4, 5, 7, 10, or 11(a) shall be fined not more than $5,000, or imprisoned not more than five years, or both.

(d) Whenever any person has engaged or there are reasonable grounds to believe that any person is about to engage in any act or practice prohibited by section 2, 3, 4, 5, 7, 10, 11, or subsection (b) of this section, the Attorney General may institute for the United States, or in the name of the United States, an action for preventive relief, including an application for a temporary or permanent injunction, restraining order, or other order, and including an order directed to the State and State or local election officials to require them (1) to permit persons listed under this Act to vote and (2) to count such votes.

(e) Whenever in any political subdivision in which there are examiners appointed pursuant to this Act any persons allege to such an examiner within forty-eight hours after the closing of the polls that notwithstanding (1) their listing under this Act or registration by an appropriate election official and (2) their eligibility to vote, they have not been permitted to vote in such election, the examiner shall forthwith notify the Attorney General if such allegations in his opinion appear to be well founded. Upon receipt of such notification the Attorney General may forthwith file with the district court an application for an order providing for the marking, casting, and counting of the ballots of such persons and requiring the inclusion of their votes in the total vote before the results of such election shall be deemed final and any force or effect given thereto. The district court shall hear and determine such matters immediately after

the filing of such application. The remedy provided in this subsection shall not preclude any remedy available under State or Federal law.

(f) The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this section and shall exercise the same without regard to whether a person asserting rights under the provisions of this Act shall have exhausted any administrative or other remedies that may be provided by law.

SEC. 13. Listing procedures shall be terminated in any political subdivision of any State (a) with respect to examiners appointed pursuant to clause (b) of section 6 whenever the Attorney General notifies the Civil Service Commission, or whenever the District Court for the District of Columbia determines in an action for declaratory judgment brought by any political subdivision with respect to which the Director of the Census has determined that more than 50 per centum of the nonwhite persons of voting age residing therein are registered to vote, (1) that all persons listed by an examiner for such subdivision have been placed on the appropriate voting registration roll, and (2) that there is no longer reasonable cause to believe that persons will be deprived of or denied the right to vote on account of race or color, or in contravention of the guarantees set forth in section 4(f)(2) in such subdivision, and (b), with respect to examiners appointed pursuant to section 3(a), upon order of the authorizing court. A political subdivision may petition the Attorney General for the termination of listing procedures under clause (a) of this section, and may petition the Attorney General to request the Director of the Census to take such survey or census as may be appropriate for the making of the determination provided for in this section. The District Court for the District of Columbia shall have jurisdiction to require such survey or census to be made by the Director of the Census and it shall require him to do so if it deems the Attorney General's refusal to request such survey or census to be arbitrary or unreasonable.

Public Law 85-15

SEC. 14. (a) All cases of criminal contempt arising under the provisions of this Act shall be governed by section 151 of the Civil Rights Act of 1957 (42 U.S.C. 1995).

(b) No court other than the District Court for the District of Columbia or a court of appeals in any proceeding under section 9 shall have jurisdiction to issue any declaratory judgment pursuant to section 4 or section 5 or any restraining order or temporary or permanent injunction against the execution or enforcement of any provision of this Act or any action of any Federal officer or employee pursuant hereto.

(c)(1) The terms "vote" or "voting" shall include all action necessary to make a vote effective in any primary, special, or general election, including, but not limited to,

registration, listing pursuant to this Act, or other action required by law prerequisite to voting, casting a ballot, and having such a ballot counted properly and included in the appropriate totals of votes cast with respect to candidates for public or party office and propositions for which votes are received in an election.

(2) The term "political subdivision" shall mean any county or parish, except that where registration for voting is not conducted under the supervision of a county or parish, the term shall include any other subdivision of a State which conducts registration for voting.

(3) The term "language minorities" or "language minority group" means persons who are American Indian, Asian American, Alaskan Natives or of Spanish heritage. Public Law 94-73

(d) In any action for a declaratory judgment brought pursuant to section 4 or section 5 or this Act, subpenas for witnesses who are required to attend the District Court for the District of Columbia may be served in any judicial district of the United States: *Provided*, That no writ of subpena shall issue for witnesses without the District of Columbia at a greater distance than one hundred miles from the place of holding court without the permission of the District Court for the District of Columbia being first had upon proper application and cause shown.

(e) In any action or proceeding to enforce the voting guarantees of the fourteenth or fifteenth amendment, the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee as part of the costs. Public Law 94-73

SEC. 15. Section 2004 of the Revised Statutes (42 U.S.C. 1971), as amended by section 131 of the Civil Rights Act of 1957 (71 Stat. 637), and amended by section 601 of the Civil Rights Act of 1960 (74 Stat. 90), and as further amended by section 101 of the Civil Rights Act of 1964 (78 Stat. 241), is further amended as follows:

(a) Delete the word "Federal" wherever it appears in subsections (a) and (c);

(b) Repeal subsection (f) and designate the present subsections (g) and (h) as (f) and (g), respectively.

SEC. 16. The Attorney General and the Secretary of Defense, jointly, shall make a full and complete study to determine whether, under the laws or practices of any State or States, there are preconditions to voting, which might tend to result in discrimination against citizens serving in the Armed Forces of the United States seeking to vote. Such officials shall, jointly, make a report to the Congress not later than June 30, 1966, containing the results of such study, together with a list of any States in which such preconditions exist, and shall include in such report such recommendations for legislation as they deem advisable to prevent discrimination in voting

against citizens serving in the Armed Forces of the United States.

SEC. 17. Nothing in this Act shall be construed to deny, impair, or otherwise adversely affect the right to vote of any person registered to vote under the law of any State or political subdivision.

SEC. 18. There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

SEC. 19. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of the Act and the application of the provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

TITLE II—SUPPLEMENTAL PROVISIONS

APPLICATION OF PROHIBITION TO OTHER STATES

Public Law 94-73
Public Law 91-285

SEC. 201. (a) No citizen shall be denied, because of his failure to comply with any test or device, the right to vote in any Federal, State, or local election conducted in any State or political subdivision of a State.

(b) As used in this section, the term "test or device" means any requirement that a person as a prerequisite for voting or registration for voting (1) demonstrate the ability to read, write, understand, or interpret any matter, (2) demonstrate any educational achievement or his knowledge of any particular subject, (3) possess good moral character, or (4) prove his qualifications by the voucher of registered voters or members of any other class.

RESIDENCE REQUIREMENTS FOR VOTING

Public Law 91-285

SEC. 202. (a) The Congress hereby finds that the imposition and application of the durational residency requirement as a precondition to voting for the offices of President and Vice President, and the lack of sufficient opportunities for absentee registration and absentee balloting in presidential elections—

(1) denies or abridges the inherent constitutional right of citizens to vote for their President and Vice President;

(2) denies or abridges the inherent constitutional right of citizens to enjoy their free movement across State lines;

(3) denies or abridges the privileges and immunities guaranteed to the citizens of each State under article IV, section 2, clause 1, of the Constitution;

(4) in some instances has the impermissible purpose or effect of denying citizens the right to vote for such officers because of the way they may vote;

(5) has the effect of denying to citizens the equality of civil rights, and due process and equal pro-

tection of the laws that are guaranteed to them under the fourteenth amendment; and

(6) does not bear a reasonable relationship to any compelling State interest in the conduct of presidential elections.

(b) Upon the basis of these findings, Congress declares that in order to secure and protect the above-stated rights of citizens under the Constitution, to enable citizens to better obtain the enjoyment of such rights, and to enforce the guarantees of the fourteenth amendment, it is necessary (1) to completely abolish the durational residency requirement as a precondition to voting for President and Vice President, and (2) to establish nationwide, uniform standards relative to absentee registration and absentee balloting in presidential elections.

(c) No citizen of the United States who is otherwise qualified to vote in any election for President and Vice President shall be denied the right to vote for electors for President and Vice President, or for President and Vice President, in such election because of the failure of such citizen to comply with any durational residency requirement of such State or political subdivision; nor shall any citizen of the United States be denied the right to vote for electors for President and Vice President, or for President and Vice President, in such election because of the failure of such citizen to be physically present in such State or political subdivision at the time of such election, if such citizen shall have complied with the requirements prescribed by the law of such State or political subdivision providing for the casting of absentee ballots in such election.

(d) For the purposes of this section, each State shall provide by law for the registration or other means of qualification of all duly qualified residents of such State who apply, not later than thirty days immediately prior to any presidential election, for registration or qualification to vote for the choice of electors for President and Vice President or for President and Vice President in such election; and each State shall provide by law for the casting of absentee ballots for the choice of electors for President and Vice President, or for President and Vice President, by all duly qualified residents of such State who may be absent from their election district or unit in such State on the day such election is held and who have applied therefor not later than seven days immediately prior to such election and have returned such ballots to the appropriate election official of such State not later than the time of closing of the polls in such State on the day of such election.

(e) If any citizen of the United States who is otherwise qualified to vote in any State or political subdivision in any election for President and Vice President has begun residence in such State or political subdivision

after the thirtieth day next preceding such election and, for that reason, does not satisfy the registration requirements of such State or political subdivision he shall be allowed to vote for the choice of electors for President and Vice President, or for President and Vice President, in such election, (1) in person in the State or political subdivision in which he resided immediately prior to his removal if he had satisfied, as of the date of his change of residence, the requirements to vote in that State or political subdivision, or (2) by absentee ballot in the State or political subdivision in which he resided immediately prior to his removal if he satisfies, but for his nonresident status and the reason for his absence, the requirements for absentee voting in that State or political subdivision.

(f) No citizen of the United States who is otherwise qualified to vote by absentee ballot in any State or political subdivision in any election for President and Vice President shall be denied the right to vote for the choice of electors for President and Vice President, or for President and Vice President, in such election because of any requirement of registration that does not include a provision for absentee registration.

(g) Nothing in this section shall prevent any State or political subdivision from adopting less restrictive voting practices than those that are prescribed herein.

(h) The term "State" as used in this section includes each of the several States and the District of Columbia.

(i) The provisions of section 11(c) shall apply to false registration, and other fraudulent acts and conspiracies, committed under this section.

BILINGUAL ELECTION REQUIREMENTS

Public Law 94-73

SEC. 203. (a) The Congress finds that, through the use of various practices and procedures, citizens of language minorities have been effectively excluded from participation in the electoral process. Among other factors, the denial of the right to vote of such minority group citizens is ordinarily directly related to the unequal educational opportunities afforded them, resulting in high illiteracy and low voting participation. The Congress declares that, in order to enforce the guarantees of the fourteenth and fifteenth amendments to the United States Constitution, it is necessary to eliminate such discrimination by prohibiting these practices, and by prescribing other remedial devices.

(b) Prior to August 6, 1985, no State or political subdivision shall provide registration or voting notices, forms, instructions, assistance, or other materials or information relating to the electoral process, including ballots, only in the English language if the Director of the Census determines (i) that more than 5 percent of the citizens of voting age of such State or political subdivi-

89

sion are members of a single language minority and (ii) that the illiteracy rate of such persons as a group is higher than the national illiteracy rate: *Provided*, That the prohibitions of this subsection shall not apply in any political subdivision which has less than five percent voting age citizens of each language minority which comprises over five percent of the statewide population of voting age citizens. For purposes of this subsection, illiteracy means the failure to complete the fifth primary grade. The determinations of the Director of the Census under this subsection shall be effective upon publication in the Federal Register and shall not be subject to review in any court.

(c) Whenever any State or political subdivision subject to the prohibition of subsection (b) of this section provides any registration or voting notices, forms, instructions, assistance, or other materials or information relating to the electoral process, including ballots, it shall provide them in the language of the applicable minority group as well as in the English language: *Provided*, That where the language of the applicable minority group is oral or unwritten or in the case of Alaskan natives, if the predominant language is historically unwritten, the State or political subdivision is only required to furnish oral instructions, assistance, or other information relating to registration and voting.

(d) Any State or political subdivision subject to the prohibition of subsection (b) of this section, which seeks to provide English-only registration or voting materials or information, including ballots, may file an action against the United States in the United States District Court for a declaratory judgment permitting such provision. The court shall grant the requested relief if it determines that the illiteracy rate of the applicable language minority group within the State or political subdivision is equal to or less than the national illiteracy rate.

(e) For purposes of this section, the term "language minorities" or "language minority group" means persons who are American Indian, Asian American, Alaskan Natives, or of Spanish heritage.

JUDICIAL RELIEF

SEC. 204. Whenever the Attorney General has reason to believe that a State or political subdivision (a) has enacted or is seeking to administer any test or device as a prerequisite to voting in violation of the prohibition contained in section 201, or (b) undertakes to deny the right to vote in any election in violation of section 202, or 203, he may institute for the United States, or in the name of the United States, an action in a district court of the United States, in accordance with sections 1391 through 1393 of title 28, United States Code, for a restraining order, a preliminary or permanent injunction, or such other order as he deems appropriate. An action under

Public Law 94-73

Public Law 91-285

40

this subsection shall be heard and determined by a court of three judges in accordance with the provisions of section 2284 of title 28 of the United States Code and any appeal shall be to the Supreme Court.

PENALTY

Public Law 91-285

SEC. 205. Whoever shall deprive or attempt to deprive any person of any right secured by section 201, 202, or 203 of this title shall be fined not more than $5,000, or imprisoned not more than five years, or both.

SEPARABILITY

Public Law 91-285

SEC. 206. If any provision of this Act or the application of any provision thereof to any person or circumstance is judicially determined to be invalid, the remainder of this Act or the application of such provision to other persons or circumstances shall not be affected by such determination.

Public Law 94-73

SEC. 207. (a) Congress hereby directs the Director of the Census forthwith to conduct a survey to compile registration and voting statistics: (i) in every State or political subdivision with respect to which the prohibitions of section 4(a) of the Voting Rights Act of 1965 are in effect, for every statewide general election for Members of the United States House of Representatives after January 1, 1974; and (ii) in every State or political subdivision for any election designated by the United States Commission on Civil Rights. Such surveys shall only include a count of citizens of voting age, race or color, and national origin, and a determination of the extent to which such persons are registered to vote and have voted in the elections surveyed.

(b) In any survey under subsection (a) of this section no person shall be compelled to disclose his race, color, national origin, political party affiliation, or how he voted (or the reasons therefor), nor shall any penalty be imposed for his failure or refusal to make such disclosures. Every person interrogated orally, by written survey or questionnaire, or by any other means with respect to such information shall be fully advised of his right to fail or refuse to furnish such information.

(c) The Director of the Census shall, at the earliest practicable time, report to the Congress the results of every survey conducted pursuant to the provisions of subsection (a) of this section.

(d) The provisions of section 9 and chapter 7 of title 13 of the United States Code shall apply to any survey, collection, or compilation of registration and voting statistics carried out under subsection (a) of this section.

TITLE III—EIGHTEEN-YEAR-OLD VOTING AGE

Public Law 94-73

ENFORCEMENT OF TWENTY-SIXTH AMENDMENT

SEC. 301. (a)(1) The Attorney General is directed to institute, in the name of the United States, such actions against States or political subdivisions, including actions for injunctive relief, as he may determine to be necessary to implement the twenty-sixth article of amendment to the Constitution of the United States.

Public Law 94-73

(2) The district courts of the United States shall have jurisdiction of proceedings instituted under this title, which shall be heard and determined by a court of three judges in accordance with section 2284 of title 28 of the United States Code, and any appeal shall lie to the Supreme Court. It shall be the duty of the judges designated to hear the case to assign the case for hearing and determination thereof, and to cause the case to be in every way expedited.

(b) Whoever shall deny or attempt to deny any person of any right secured by the twenty-sixth article of amendment to the Constitution of the United States shall be fined not more than $5,000 or imprisoned not more than five years, or both.

DEFINITION

SEC. 302. As used in this title, the term "State" includes the District of Columbia.

Public Law 94-73

O

FOR MORE INFORMATION

For more information about how the Voting Rights Act affects your local community, contact local citizens' groups or election officials. You may also contact:

Voting Section, Civil Rights Division
U.S. Department of Justice
Washington, D.C. 20530

or

U.S. Commission on Civil Rights
Washington, D.C. 20425

Two useful publications are:

U.S. Commission on Civil Rights, *The Voting Rights Act: Ten Years After* (1975), available from the Commission;

and

David H. Hunter, *Federal Review of Voting Changes: How to Use Section 5 of the Voting Rights Act* (second edition, 1976), available from the Joint Center for Political Studies, 1426 H Street N.W., Washington, D.C. 20005.